



REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
GROUP 3627
PATENT APPLICATION

A F 3627
10/16/03
7/Recon.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Docket No: Q63928

RECEIVED

Toshio YAGIHASHI, et al.

OCT 14 2003

Appln. No.: 09/825,337

Group Art Unit: 3627

GROUP 3600

Confirmation No.: 1780

Examiner: Gerald J. O'CONNOR

Filed: April 4, 2001

For: COMMERCIAL SALES SYSTEM AND METHOD USING NETWORK

REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.116

MAIL STOP AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated July 16, 2003, please consider the following

REMARKS

Applicant thanks Examiner J. O'Connor for the opportunity of an Examiner Interview conducted on September 3, 2003.

As for Applicant's Statement of the Substance of the Interview, Applicant notes that during the interview, Applicant's representative provided the arguments for patentability of Applicant's claimed invention over the cited prior art as set forth on pages 2-7, herein. In particular, Applicant explained that the requirement of claim 1 of viewing both the specific-item catalogue and the relevant-item catalogue on the home-page, the relevant-item seller being different from the specific-item seller, was not disclosed by Tavor and Bezos, even taken in combination. No agreement was reached, and the Examiner stated that he will consider Applicant's written response to the Office Action.

Claims 1-15 are all the claims pending in the Application.

Rejection of Claims 1-15 under 35 U.S.C. § 103

Claims 1-15 are rejected under 35 U.S.C. § 103(a) as being obvious over Tavor, et al. (U.S. Patent No. 6,070,149) in view of Bezos, et al. (U.S. Patent No. 6,029,141). This rejection is traversed.

Among the problems recognized and solved by Applicant's claimed invention is that of displaying a customer product information of products of a first vendor and a second vendor, such that the first vendor whose website is visited by the customer is credited for bringing the

customer “in through the virtual door.”¹ According to an aspect of Applicant’s claimed invention, the first vendor on whose website the first and the second product are being made available to the customer is credited with a sales commission even though the customer purchases only the second product from the second vendor. Thus, according to this aspect of the invention, a sales commission is provided to the first vendor may be credited with a commission for the sale of the second product, even if the first and second product are different types of products from one another. The prior art, including Tavor and Bezos, does not identify this problem, let alone disclose the possible solutions provided by Applicant’s claimed invention.

Independent claims 1 and 5 require, *inter alia*, viewing both the specific-item catalogue and the relevant-item catalogue on the home-page, the relevant-item seller being different from the specific-item seller, and transferring a sales commission from a sales account of the relevant-item seller to a sales account of specific-item seller. Further, independent claims 9 and 14 require, *inter alia*, enabling a user to view both the specific-item catalogue information and the relevant-item catalogue information on the homepage, the relevant-item seller module being different from the specific-item seller module, and transferring a sales commission from a sales account of the relevant-item seller module to a sales account of a specific-item seller module.

¹ Applicant does not represent that every embodiment of Applicant’s claimed invention necessarily addresses the problems discussed herein or provides any of the particular solutions herein discussed. This discussion merely illustrates some aspects of Applicant’s claimed invention, but is not intended to limit in any way the claims set forth in the Application.

Tavor discloses a virtual sales personnel method in which, using the World Wide Web, a user is guided by a virtual interactive sales representative to assist the user in purchasing from a vendor's website. Tavor discloses that the user may be guided through different departments of the vendor's virtual shop by moving from a main department to a second department that sells different merchandise from the main department.

Tavor does not disclose or suggest the features of viewing both a specific-item catalogue and a relevant-item catalogue on a homepage, the specific-item seller being different from the relevant-item seller as, *inter alia*, required by claims 1 and 5, or enabling a user to view both the specific-item catalogue information and the relevant-item catalogue information on the homepage, the relevant-item seller module being different from the specific-item seller module as, *inter alia*, required by claims 9 and 14.

The Examiner cites Tavor col. 16, lines 17-37 and Fig 11, and alleges that Tavor discloses these features. The passage of Tavor cited by the Examiner discloses a "pipe line" approach to guiding the user. Specifically, the user is guided serially through a vendor's departments, starting from a "main department", each department having a different web page. (See for example, Fig. 11, cited by the Examiner.) Tavor does not disclose or suggest more than one vendor's catalogue on the same homepage. In particular, Tavor does not disclose or suggest, both a specific-item catalogue and a relevant-item catalogue on a homepage, the relevant-item seller being different from the specific-item seller (or the relevant-item seller module being different from the specific-item seller module, per claims 9 and 14). Thus Tavor does not disclose or suggest all the recitations of Applicant's claimed invention.

Sales Commission

Further, since Tavor does not disclose or suggest a homepage displaying catalogues of items by two or more item sellers, or two or more item seller modules, Tavor is incapable of disclosing or suggesting transferring a sales commission from a sales account of the relevant-item seller to a sales account of specific-item seller (or from a sales account of the relevant-item seller module to a sales account of specific-item seller module, per claims 9 and 14).

As discussed, according to an aspect of the invention, a first vendor is credited with a sales commission even when the second product that is sold (the relevant-item) is very different from the types products sold by the first vendor. According to this aspect of the invention, the first and second vendor sell products which do not overlap, and thus the first vendor may develop profit centers in markets in which the first vendor sells no products. Tavor does not even remotely disclose or suggest this feature.

Bezos does not remedy these deficiencies. Bezos discloses an internet-based customer referral system, in which “referral links” to websites of merchants are provided from an “associate’s” webpage. An associate may be, for example, an internet-based product reviewer or a recommendation service. In Bezos’ method, a user can select a referral link to a product and be guided to the merchant’s page displaying information about the specific product sold. Bezos discloses that upon a completed sale, the referring associate is credited with a sales commission for the referral.

Bezos does not disclose or suggest viewing both a specific-item catalogue and a relevant-item catalogue on a homepage. In Bezos, there is, for example, a review of a book (on an “associate’s” homepage) and a link to the book vendor’s (the merchant’s) home page. In the example cited by the Examiner, Fig. 7 of Bezos, an HTML page is shown with a review of a book on skiing, and a link to Amazon’s page selling that book. That is, there is no item shown on the webpage as being offered for sale by the provider of the webpage (i.e. the book review service offers no books or products), only a link to a product being sold by a merchant’s website. Thus, Bezos does not disclose two sellers being different from one another whose items appear on one webpage. Nor does Bezos disclose on one webpage a specific item sold by the specific item seller and a relevant item sold by the relevant item seller sold.

Further, since Bezos does not disclose or suggest a homepage displaying catalogues of a specific item and a relevant item, Bezos is incapable of disclosing or suggesting transferring a sales commission from a sales account of the relevant-item seller (or seller module) to a sales account of specific-item seller (or seller module).

As a related matter, the review of the product displayed on the homepage disclosed by Bezos is directly related to the associate’s product. In the example, in Bezos, the book review is about the book for which the link is provided. However, as discussed, according to an aspect of the present invention, the first vendor is credited with a sales commission for a relevant product quite different from the types of products offered for sale by the first vendor. Thus, Bezos does not disclose or suggest transferring a sales commission from a sales account of the relevant-item seller (or seller module) to a sales account of specific-item seller (or seller module). Therefore,

Tavor and Bezos, even taken together, do not disclose or suggest all the recitations of Applicant's invention, as claimed in independent claims 1, 5, 9 and 14.

Moreover, Applicant respectfully submits that there would have been no suggestion or motivation for combining Tavor and Bezos to arrive at Applicant's claimed invention. Tavor teaches a virtual sales personnel method, while Bezos teaches an internet-based commission referral system. The Examiner alleges that the motivation would have been "to generate increased sales by attracting a larger customer base by offering a greater number and selection of products for customers, particularly specialty/low volume products, without having to incur additional inventory/carrying costs." Applicant submits that it is unclear how this general goal would have motivated a person of ordinary skill to arrive, based on Tavor and Bezos, at the specific combination of Applicant's claimed invention at the time the claimed invention was made. It is respectfully submitted that Applicant's claimed invention would not have been obvious from Tavor and Bezos to a person of ordinary skill in the art based on this general motivation, without impermissible hindsight reconstruction.

Dependent Claims 2-4, 6-8, 10-13, and 15

Claims 2-4 depend from claim 1. Claims 6-8 depend from claim 5. Claims 10-13 depend from claim 9. Claim 15 depends from claim 14. Therefore, claims 2-4, 6-8, 10-13, and 15 incorporate all the novel and nonobvious recitations of their respective base claims and are

patentably distinguishable over the prior art for at least the reasons that claims 1, 5, 9 and 14, respectively, are patentably distinguishable over the prior art.

In addition, claims 2, 6, 10 and 15 require, *inter alia*, discounting the sales commission from a sales account of the relevant-item seller to a sales account of a specific-item seller, with reference to the purchaser history data.

Tavor and Bezos do not disclose or suggest referring to purchaser history data in computing a sales commission. Therefore, Tavor and Bezos are incapable of disclosing or suggesting discounting the sales commission with reference to such purchaser history data, as claimed in claims 2, 6, 10 and 15.

The Examiner acknowledges that Tavor and Bezos do not disclose these features, but alleges that discounting the sales commission is well-known. (Paper No. 5, page 4.)

The Examiner provides no support for his contention that discounting the sales commission with reference to the purchaser history data is disclosed in the prior art or is well-known. It is respectfully submitted that the Examiner's allegation that the feature is "well-known" is unsupported. Therefore, Tavor and Bezos do not disclose or suggest the recitations of claims 2, 6, 10 and 15.

In view of the foregoing remarks, reconsideration and allowance of this Application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the

REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.116

U.S. Application No. 09/825,337

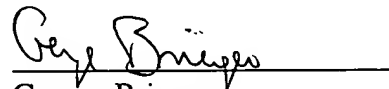
Q63928

Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860


George Brieger
Registration No. 52,652

WASHINGTON OFFICE



23373

PATENT TRADEMARK OFFICE

Date: October 9, 2003